

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejection of all the claims now in the application (i.e. claims 1-15 and 17-21) is respectfully requested in view of the foregoing amendments and the following remarks.

Applicant would like to thank the examiner for his indication that claims 17-21 were allowed.

The Examiner rejected claims 1-11 and 13-15 as being anticipated by Siebels, U.S. Patent No. 5,306,310. The examiner apparently considered the new limitation "each longitudinal end having an outer curvature corresponding to the inward curvature of the vertebral endplates of the upper and lower vertebra" in its broadest sense to read on the circular periphery of Siebels. Applicant has amended claim 1 to make it clear that the surfaces being claimed extend transverse to the longitudinal axis of the disc and through the adjacent vertebra. Thus claim 1 has language similar to claim 17 and is therefore considered to distinguish over Siebels.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 10/672,327

Docket No.: SPINE 3.0-2144 DIV II

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: May 16, 2006

Respectfully submitted,

By 

Raymond W. Augustin

Registration No.: 28,588

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

654808_1.DOC